

**UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION**

COMMISSIONERS: **Jon Leibowitz, Chairman**
 Pamela Jones Harbour
 William E. Kovacic
 J. Thomas Rosch

In the Matter of)
)
CONSTELLATION BRANDS, INC.,) **Docket No. C-4266**
 a corporation.)
_____)

COMPLAINT

The Federal Trade Commission, having reason to believe that Constellation Brands, Inc. has violated the provisions of the Federal Trade Commission Act, and it appearing to the Commission that this proceeding is in the public interest, alleges:

1. Respondent Constellation Brands, Inc. (“respondent”) is a Delaware corporation with its principal office or place of business at 207 High Point Drive, Building 200, Victor, NY 14561.
2. Respondent has advertised, offered for sale, sold, and distributed beverage alcohol products to the public, including Wide Eye, a caffeinated schnapps introduced by the company in 2007. Wide Eye is a “food” within the meaning of Sections 12 and 15 of the Federal Trade Commission Act.
3. The acts and practices of respondent alleged in this complaint have been in or affecting commerce, as “commerce” is defined in Section 4 of the Federal Trade Commission Act.
4. To induce customers to purchase Wide Eye, respondent has disseminated, or caused to be disseminated, advertisements, including but not necessarily limited to the attached Exhibits A through D. These advertisements contain the following statements and depictions:
 - A. Video appearing on www.wideeye.com and vids.myspace.com (Exhibit A, transcript, and Exhibit B, DVD containing ad).

[Music, with alarm sounds, plays in the background.]

CLOSE UP IMAGE OF AN UNIDENTIFIED WOMAN: Come on, take your shot.

ON SCREEN: I am your wake up call. Wide Eye

WOMAN: Take it cold.

ON SCREEN: Finely Distilled Schnapps Combined with Caffeine

WOMAN: Take it crisp.

ON SCREEN: Caffeinated Schnapps is here. [images of product logo, people partying and dancing, and a boxer, flash on the screen]

WOMAN: Take it now.

ON SCREEN: Wide Eye

WOMAN: I demand to be served as coldly as your soul.

ON SCREEN: I demand to be served as coldly as your soul. Get Yours @ WideEye.com

WOMAN: Take your shot.

ON SCREEN: Wake Up @ WideEye.com

WOMAN: Cold as your soul.

ON SCREEN: Cherry Bomb [product image]

WOMAN: Cold as your soul.

ON SCREEN: Mango Chili [product image]

WOMAN: Cold as your soul.

ON SCREEN: Pomegranate Spice [product image] [images of product logo, people partying and dancing, and a boxer, flash on the screen]

WOMAN: Cold as your soul.

ON SCREEN: Wide Eye. Wake Up @ WideEye.com

B. Text on www.wideeye.com (Exhibit C).

3 Rounds of Flavor. Introducing caffeinated schnapps. Wakes up sweet, then goes off like an alarm.

When you party with the world's first caffeinated schnapps it'll seem like the rest of the world is sleepwalking through life.

C. Print ad (Spin magazine) (Exhibit D).

[depiction of a woman boxer holding a bottle of Wide Eye]

This is your wake up call. Caffeinated schnapps is here. Get yours at wideeye.com.

5. Through the means described in Paragraph 4, including the statements and depictions contained in the advertisements attached as Exhibits A through D, among others, respondent has represented, expressly or by implication, that consumers who drink Wide Eye will remain alert when consuming alcohol.

6. Through the means described in Paragraph 4, including the statements and depictions contained in the advertisements attached as Exhibits A through D, among others, respondent has represented, expressly or by implication, that it possessed and relied upon a reasonable basis that substantiated the representation set forth in Paragraph 5 at the time the representation was made.

7. In truth and in fact, respondent did not possess and rely upon a reasonable basis that substantiated the representation set forth in Paragraph 5 at the time the representation was made. Therefore, the representation set forth in Paragraph 6 was, and is, false and misleading.

8. The acts and practices of respondent as alleged in this complaint constitute unfair or deceptive acts or practices, and the making of false advertisements, in or affecting commerce, in violation of Sections 5(a) and 12 of the Federal Trade Commission Act.

THEREFORE, the Federal Trade Commission this second day of October, 2009, has issued this complaint against respondent.

By the Commission, Commissioner Harbour recused.

Donald S. Clark
Secretary

SEAL: